

### REMARKS

Reconsideration and allowance of the subject patent application are respectfully requested.

Applicants acknowledge with appreciation the indication that claims 5 and 10 contain allowable subject matter.

Claims 1-4, 6-9, 11 and 12 were rejected under 35 U.S.C. Section 102(e) as allegedly being “anticipated” by Stolfo et al. (U.S. Publication No. 2003/0167402).

Applicant traverses this rejection.

As noted in the prior response, claim 11 corresponds to original claim 5 written in independent form. In accordance with the indication in the 10/10/2007 and 2/28/2008 office actions, this claim is believed to be in condition for allowance. Applicant notes that the rejection of this claim in the office action does not address the specific limitations present in the last paragraph of this claim.

Claim 1 recites:

b) examining the executable attachment and comparing the executable attachment with the extracted structural elements to determine whether the executable attachment contains code, data or encoded data that could have created the extracted structural elements (emphasis added).

Claim 1 further recites that the attachment is signaled as being possibly viral or not on the basis of the extent to which the examining step b) finds evidence that the structural elements have been created by that attachment.

Claims 6 and 12 recites similar features.

Claim 1 defines the processing of a single email. As the "extracted structural elements" are defined as being extracted from that email, it is expressly recited that the comparison is between (1) an executable attachment attached to the email and (2) structural elements extracted from the same email; that is the only email referred to in claim 1. Consequently, Applicant respectfully submits that claim 1 already adequately reflects the internal comparison referenced in the final sentence of paragraph 3 of the office action.

Moreover, Applicant respectfully submits that the parts of Stolfo et al. relied upon in the office action do not fall within the scope of the "examining" feature of claim 1 because they do not meet the recitation in claim 1 discussed above of "comparing the executable attachment with the extracted structural elements."

Regarding feature (b) of claim 1, the discussion of Stolfo et al. relied upon in paragraphs 3 and 5 of the office action are paragraphs [0061] and [0019]-[0020].

Paragraph [0061] of Stolfo et al. discloses comparing (1) statistics relating to an executable attachment with (2) a model. It is clear from claim 1 of Stolfo et al. and also paragraph [0018] that the model is derived from prior emails, i.e., not the "selected" email under consideration.

Paragraphs [0019]-[0020] describe the statistics relating to an executable attachment. As is clear from claims 6 and 7 of Stolfo et al., such statistics are an example of the "statistics relating to said transmission of selected email [i.e., the email under consideration]." The statistics relating to an executable attachment include statistics

relating to structural elements of the email (for example statistics relating to the destination or source address of an email containing the attachment). Applicant assumes for the sake of argument that this is viewed as extracting structural elements of an email under consideration as set forth in feature (a) of claim 1. As mentioned above, paragraphs [0061] and [0019]-[0020] of Stolfo et al. relied upon in the office action disclose comparison of (1) statistics relating to such structural elements and associated with an executable attachment with (2) a model. However, there is no disclosure of feature (b) of claim 1 which requires comparison (1) of an executable attachment attached to the email with (2) structural elements extracted from the same email, as discussed above.

In summary, even if Stolfo et al. can be said to use structural elements of emails containing an attachment in comparison, the comparison does not in any way meet the definition in claim 1 of “comparing the executable attachment with the extracted structural elements”, because the comparison is with a model.

The fifth sentence of paragraph 3 of the office action alleges that paragraph [0020] of Stolfo et al. discloses “a comparison of the recorded structural elements to a particular element.” Applicant respectfully submits that this is not what paragraph [0020] discloses.

Paragraph [0020] of Stolfo et al. firstly discloses gathering statistics related to an attachment, which statistics may include the number of addresses to which the attachment is transmitted (destination addresses) or which transmit the attachment (source addresses). Such gathering of statistics does not constitute “comparing the executable

attachment with the extracted structural elements.” There is no comparison involved in counting the destination or source addresses of emails containing a particular attachment.

Paragraph [0020] of Stolfo et al. secondly discloses comparison of the gathered statistics with a model, the model being disclosed in paragraph [0018] and claim 1 of Stolfo et al. as being derived from prior emails. This comparison does not constitute “comparing the executable attachment with the extracted structural elements.”

In this regard, Applicant notes that paragraphs 3 and 5 of the office action consistently refer to this feature as "examining the executable attachment and comparing the extracted structural elements to determine ..." This incorrectly reflects the language of claim 1 because the actual recitation in claim 1 is "examining the executable attachment and comparing the executable attachment with the extracted structural elements to determine ..." Thus, the office action omits the words "executable attachment with". This is important because although the office action characterizes Stolfo et al. as disclosing a comparison involving structural elements, the comparison in Stolfo et al. is with a model, not with the executable attachment as recited in claim 1.

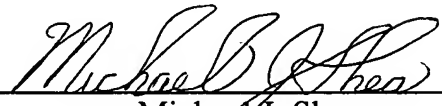
New claim 14 depends from claim 12. Claim 14 is based on claim 5 and is believed to be allowable.

SHIPP, A.  
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The pending claims are believed to patentably distinguish from the applied art and favorable office action is respectfully requested.

Respectfully submitted,

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